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Office of the City Administrator

**PUBLIC WELFARE COMMITTEE**  
**Tuesday, December 13, 2022**  
**5:15 PM**  
**Lower Conference Room**

**Agenda**

I) Call to Order

II) Approval of Meeting Minutes

**Action requested: review and approve**

1. November Meeting Minutes

III) Ordinances

**Action requested: review and recommend approval**

1. An Ordinance Amending to Chapter 2 of the Mequon Code of Ordinances Related to Electronic Attendance at City Meetings
2. Nuisances Ordinance Amendments

IV) Discussion Items

**Action requested: discuss and take action as needed**

1. Community Survey Planning and Background Information

V) Work Calendar

VI) Adjourn

*Dated: December 13, 2022*

*/s/ Dale Mayr, Chair*

.....  
Notice is hereby given that a quorum of other governmental bodies may be present at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take formal action thereto at this meeting.

Persons with disabilities requiring accommodations for attendance at this meeting should contact the City Clerk's Office at 262-236-2914, twenty-four (24) hours in advance of the meeting.

Any questions regarding this agenda may be directed to the City Administrator's Office at 262-236-2941, Monday through Friday, 8:00 AM – 4:30 PM



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Office of the City Administrator

## PUBLIC WELFARE COMMITTEE

Wednesday, November 9, 2022

6:45 PM

Lower Conference Room

### Minutes

#### I) Call to Order, Roll Call

##### **Present:**

Chair Dale Mayr  
 Alderman Mark Gierl  
 Alderman Kathleen Schneider

Also Present: Assistant City Administrator Schoenemann, City Attorney Sajdak, Assistant Director of Community Development Zader, City Planner Miller, and Executive Assistant Enea

#### II) Approval of Meeting Minutes

##### 1. October Meeting Minutes

**RESULT:** **Approved by Voice Acclamation [Unanimous]**

**MOVED BY:** Alderman Schneider

**SECONDED BY:** Alderman Gierl

|                                     |
|-------------------------------------|
| <b>AYES:</b> Mayr, Gierl, Schneider |
|-------------------------------------|

#### III) Ordinances

##### **Action requested: review and recommend approval**

- ORDINANCE 2022-1635** An Ordinance Amending Chapter 10 of the Mequon Municipal Code, Specifically Section 10-55(a) of the Building Code, Related to Survey Requirements for a Building Permit

Alderwoman Schneider thought the language about a new plat of survey was unclear. She moved to remove the word "new" from Section A and Alderman Gierl seconded.

**RESULT:** **Approved with Amendments [Unanimous]**

**MOVED BY:** Alderman Gierl

- ORDINANCE 2022-1629** An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Establishing Veterinary Clinics as a Conditional Use in the B-1 (Neighborhood Commercial) Zoning District

Attachment: PW Mtg Mins 110922 (8009 : November Meeting Minutes)

Assistant Community Director Zader explained the reason for changing the zoning. Typically, a veterinary clinic is not allowed in a multi-tenant building. The building in question will be coming down and rebuilt. Also, typically MRIs are only done during the day and boarding will not be needed.

**RESULT:** **Approved by Voice Acclamation [Unanimous]**

**MOVED BY:** Alderman Schneider

**SECONDED BY:** Alderman Gierl

|                                     |
|-------------------------------------|
| <b>AYES:</b> Mayr, Gierl, Schneider |
|-------------------------------------|

#### IV) Discussion Items

##### 1. Nuisances Ordinance Amendments

City Attorney explained the proposed changes to the nuisance ordinance. More modern and consistent language was used. Also, the purpose was to streamline and take the Common Council out of the process. There was also an attempt to standardize "noise". The Committee discussed time of day as well and maybe starting later on weekends. City Attorney Sajdak will make revisions and bring to the December meeting.

#### V) Work Calendar

The Nuisance Ordinance, Electronic Meetings, and the City-wide survey will be discussed at the next meeting.

#### VI) Adjourn

Alderman Gierl moved to adjourn at 7:27 PM and Alderwoman Schneider seconded.

Respectfully Submitted,

*Carrie Enea*



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Office of Administration

**TO: Public Welfare Committee**  
**FROM: Justin Schoenemann, Assistant City Administrator**  
**DATE: October 3, 2022**  
**SUBJECT: An Ordinance Amending to Chapter 2 of the Mequon Code of Ordinances  
 Related to Electronic Attendance at City Meetings**

### **December Update From The City Attorney**

At its October meeting, the Committee provided final guidance with respect to the issues that had been discussed up to that point. Specifically, the Committee reviewed changes allowing members of citizen committees to attend up to four meetings a year electronically, to allow staff and consultants to attend electronically where authorized and rejecting a proposal to change to an electronic meeting at the last minute. Heading into the November meeting, Alderman Bushee's planned absence highlighted an ambiguity within the code as it related to members of the council attending meetings electronically. At the suggestion of the City Attorney, changes have been brought forward to clarify the ambiguity. The first attachment to the memo includes changes to Section 2-35, which are blacklined to illustrate the modifications from the version the Committee previously reviewed. These changes clarify that a council member's attendance is based on an individual committee instead of all meetings. For example, under the existing language, a member who virtually appears at the Public Welfare, Finance-Personnel and Committee of the Whole meeting on the same night would not be able to attend the Council meeting that same night. The proposed language would count each of those committees separately.

### **Background**

During its September meeting, the Public Welfare Committee began a review of the City's existing electronic meeting ordinance that governs the Common Council, Planning Commission, and all citizen committees. After discussion, the Committee coalesced around five amendments, which are:

1. Increase the electronic meeting participation limitation for members of the Common Council and the Planning Commission to three from the current limit of two per year.
2. Allow members of Citizen Committees to attend meetings electronically up to four times per year instead of the current limit of three times per year.
3. Allow City staff & consultants to attend meetings electronically as needed.
4. Specify that the electronic participation ordinances can be suspended in the event a declaration of an emergency comes from the City, County, State, or Federal Government.
5. Provide the Police & Fire Commission Members with the ability to use electronic participation ordinances options when not functioning in a quasi-judicial capacity.

The City Attorney has drafted the amendments for the ordinances governing the Common

Council, Planning Commission, and all citizen committees based on the Public Welfare Committee's direction, which is attached to this memo. Staff has also included a copy of the last two memos for reference purposes.

### **Analysis**

It is anticipated that at the October 11 meeting, the Committee will review the proposed language incorporating its electronic meeting amendments into the applicable ordinance sections and suggest any further changes decided by the Committee.

Furthermore, following last month's meetings, staff scheduled a consultant to review the City's meeting spaces and provide cost estimates to address the technical needs of electronic meetings in the Lower Level Conference Room, South Conference Room, and Common Council Chambers. As of the memo, the cost estimates have yet to be received, but staff anticipates receiving most, if not all, of the information prior to the October 11 meeting. Staff will bring the information to the meeting.

### **Recommendation**

Assistant City Administrator Schoenemann will be present to help gather the Committee's feedback on amendments or forward the ordinance to the Common Council for review in November if such is approved.

#### **Attachments:**

Exhibit A - CC & PC - Article II - Sec. 2.35 (d) - December revisions (DOCX)

PWC Memo September 2022 (PDF)

COW Memo from July 2022 (PDF)

COMMON COUNCIL  
OF THE  
CITY OF MEQUON

An Ordinance Amending to Chapter 2 of the Mequon Code of Ordinances Related to Electronic Attendance at City Meetings

A. The Common Council previously adopted section 2-35 of the Mequon Municipal Code which establishes certain rules related to the conduct of Common Council meetings.

B. The Common Council previously adopted section 2-430 of the Mequon Municipal Code which establishes certain rules related to election meeting attendance at other City meetings.

B. The Common Council desires to amend those rules to clarify the same and add additional flexibility.

BASED UPON THE FOREGOING RECITALS, THE COMMON COUNCIL OF THE CITY OF MEQUON, OZAUKEE COUNTY, STATE OF WISCONSIN, DO ORDAIN AS FOLLOWS:

SECTION I

Section 2-35 of the Mequon Municipal Code is repealed and recreated to read as shown on the attached Exhibit A

SECTION II

Section 2-430(b)(2) of the Mequon Municipal Code is amended to read as follows (NOTE: Deleted text is ~~struck through~~; Added text is underlined):

(2) A member of a committee can attend meetings electronically up to ~~three~~ four times a year.

SECTION III

Section 2-486(d) of the Mequon Municipal Code is amended to read as follows (NOTE: Deleted text is ~~struck through~~; Added text is underlined):

(d) When the board is acting in a quasi-judicial capacity, sSection 2-430 shall not apply. A quorum shall be required to be physically present to transact business or to take any action on any agenda item on the meeting's agenda when acting in a quasi-judicial capacity.

SECTION IV

Section 2-40(g) of the Mequon Municipal Code is amended to read as follows (NOTE: Deleted text is ~~struck through~~; Added text is underlined):

Emergency and disaster situations. The restrictions of this policy can be waived by the City of Mequon in the event of a bona fide disaster, as determined by the city ~~or other governing body,~~ such as the county, state, or federal government.

#### SECTION V

Section 2-40(h) of the Mequon Municipal Code is added to read as follows: (NOTE: Deleted text is ~~struck through~~; Added text is underlined):

Notwithstanding the above, city staff and consultants may be allowed to virtually attend any meeting of the council with the approval of the city administrator, mayor or presiding officer.

#### SECTION VI

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

#### SECTION VII

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

#### SECTION VIII

This Ordinance shall become effective the day after its publication as provided by law.

\_\_\_\_\_  
Approved by: Andrew Nerbun, Mayor

Date Approved: December 13, 2022

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on December 13, 2022.

\_\_\_\_\_  
Caroline Fochs, City Clerk

Published: \_\_\_\_\_

## EXHIBIT A

### Sec. 2-35. Place; quorum; adjournment.

- (a) *Place of meetings.* All common council meetings, ~~whether regular, special or organizational, and all committee of the whole, standing committee and utility board committee meetings,~~ shall be held in city hall. As used in this section, a common council meeting shall include regular, special or organizational meetings of the council, and all committee of the whole, appropriations committee, standing committee and utility board committee meetings. Notwithstanding the foregoing:
- (1) A meeting held jointly with one or more bodies that govern other political entities may be held outside of city hall.
  - (2) All or part of a meeting may be held at another location if, in the mayor's opinion, such location might assist the common council in its deliberations or is otherwise deemed to be necessary and appropriate.
  - (3) The common council may by majority vote at a prior meeting agree to hold a meeting at another location.
  - (4) The interest in an agenda item is of significant interest to the community such that city hall will be unable to accommodate the anticipated attendance from members of the public.
  - (5) The topic(s) of the meeting are anticipated to be of a perfunctory nature such that a fully virtual or electronic meeting would be more convenient for the attendees of the meeting.
  - (6) A temporary location of government is authorized under Wis. Stat. § 323.52(1) during a state of emergency as declared by the city, county, state or federal government.
- (b) *Quorum.* No action shall be taken unless a quorum is present. A quorum shall consist of the six aldermen or, if there is one or more vacancies, two-thirds of all aldermen then holding office. The mayor or the majority of aldermen present may compel the attendance of absent members in order to obtain a quorum. Otherwise, the common council shall adjourn for failure to obtain a quorum. The mayor shall not be counted in determining whether a quorum is present. To the extent a regular meeting cannot be held due to the lack of a quorum, any meeting called to replace the missed meeting shall constitute a regular meeting.
- (c) *Adjournments.* The common council may, by a majority vote of the aldermen present, adjourn from time to time to a specific date and time.
- (d) *Electronic attendance.* The mayor and aldermen shall attend meetings of the common council in person except for a fully virtual or electronic meeting under subsection (a)(5) or as follows:
- (1) *Individual requests.* Provided that a quorum of members is physically present at a meeting of the common council, the mayor or any alderman is qualified to attend such meeting electronically.
    - a. ~~Any member of the common council may not electronically attend more than three meetings of the common council in any calendar year.~~ Any member of the common council may electronically attend up to three meetings of each individual category of common council meetings in any calendar year. For example, a member could electronically attend two common council meetings and three committee of the whole meeting in a year, but could not attend four committee of the whole meetings. Any meeting that is fully virtual for all members as allowed under subsection (a) shall not count against any member under this paragraph.
    - b. Procedure for electronic attendance.
      1. Notice to the city clerk. The member must notify the city clerk in writing at least 24 hours prior to the meeting in which the member desires to attend electronically unless advance

notice is impractical due to family or other emergency. If the member is unable to give the required written notice prior to the meeting, the member shall notify the clerk by other means prior to the meeting and shall submit the required written notice as soon as practicable.

2. Determination of authorization of electronic attendance. Upon receipt of the notice, the clerk shall promptly forward the notice to the mayor or, in the case of a notice by the mayor, the common council president. After establishing that a quorum of the common council is physically present at the meeting at which a member has requested to attend electronically, the presiding officer shall state that (i) a notice was received by a member of the common council in accordance with this policy, and (ii) the member will be deemed authorized to attend the meeting electronically unless a motion objecting to the member's electronic attendance is adopted by two-thirds of the members of the council physically present at the meeting. If no such motion is adopted, then the request by the member to attend the meeting electronically shall be deemed approved and the presiding officer shall declare the requesting member present. After such a declaration by the presiding officer, the question of a member's electronic attendance may not be reconsidered.
- (2) Effect of electronic attendance. A member attending a meeting of the common council electronically shall be considered present at the meeting and shall be entitled to vote on any matter before the council as if the member were physically present at the meeting.
  - (3) The following provisions shall supplement all other applicable rules and procedures identified in this article II, and are applicable for any meeting of the common council at which a member has been authorized to attend electronically. In the event of a conflict between rules, the provisions below shall control.
    - a. Identification and recognition of electronic attendees. Members attending electronically must identify themselves each time the member wishes to speak and must be recognized by the presiding officer prior to addressing the council.
    - b. Public access to meeting. The speech of a member attending electronically shall be amplified in such a manner that it is generally audible to members of the council and the public who are physically present at the meeting. Any video image of a member attending electronically shall be projected in such a manner that the member's video image is generally visible and audible to members of the council and the public who are physically present at the meeting. Votes of any member attending electronically shall be audible and expressly acknowledged by the presiding officer.
    - c. Minutes. The minutes for the meeting shall identify which members of the common council attended electronically and the means by which the member attended the meeting.
    - d. Announcements of attendance; quorum calls. Any member attending a meeting of the common council electronically shall announce their arrival at the first opportunity to do so without interrupting a speaker. If any such member needs to depart the meeting prior to adjournment they shall announce their departure without interrupting a speaker. Any member of the common council attending the meeting in person may request a quorum call at any time to ensure a quorum is in attendance.
    - e. Technical malfunctions. Each member is responsible for their electronic connection to any meeting of the common council that they attend electronically, and they attend electronically at their own risk. No action shall be invalidated on the grounds that any member attending electronically loses or otherwise has a poor connection to the meeting. The presiding officer may order the disconnection or muting of a member's electronic connection to the meeting if it is

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causing undue interference with the orderly proceedings of the meeting. The decision to so disconnect or mute a member's connection shall be announced during the meeting and may be overturned by a vote of two-thirds of the members physically present. The minutes shall reflect the action taken.

- f. Closed session exclusion. A member attending a meeting of the common council electronically shall not be able to continue to participate in the meeting when it moves into closed session unless the member is attending via a video connection and can establish the lack of presence of third parties with the member which would be detrimental to the purposes of utilizing a closed session. In the event that such member is unable to satisfy this requirement, the council shall convene as a committee of the whole to comply with the requirements of Wis. Stat. § 19.89.
- (4) Emergency and disaster situations. The provisions of this ordinance can be waived by the City of Mequon in the event of a bona fide disaster, as determined by the city or other governing body, such as the county, state, or federal government.
- (5) Notwithstanding the above, city staff and consultants may be allowed to virtually attend any meeting of the council with the approval of the city administrator, mayor or presiding officer.



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Office of Administration

**TO: Public Welfare Committee**  
**FROM: Justin Schoenemann, Assistant City Administrator**  
**DATE: September 5, 2022**  
**SUBJECT: Electronic Participation for Common Council, Planning Commission and Citizen Committee Meetings**

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### **Background**

At its Committee of the Whole meeting in July, the Common Council affirmed its interest in revising the City's electronic meeting participation ordinances that govern the Common Council, the Planning Commission, and all Citizen committees. The Council approved sending the topic to the Public Welfare Committee for review. Staff has included three attachments to assist in this review. The first attachment is a copy of the July Committee of the Whole memo that provides a brief overview of electronic participation ordinances. The remaining two attachments are copies of the applicable ordinances.

The intent of the review at Public Welfare is to explore additional ordinances amendments beyond what is already allowed. City Staff will be present at the Committee's meeting to walk through a number of discussion points to gather feedback from the Alderpersons in attendance to draft changes to the governing ordinance sections.

### **Analysis**

Electronic meeting participation includes a number of facets that can be considered by the Committee. Below staff has laid out three primary areas of discussion and deliberation.

#### **Fully Electronic Meeting Flexibility**

Currently, the ordinances do not allow for fully electronic meetings of citizen committees unless a bona fide disaster is determined by the City or other governing body. The Common Council and Planning Commission requires a quorum to be physically present to hold a meeting unless the meeting is anticipated to be of a perfunctory nature then a fully electronic meeting can be held. The policies governing electronic meetings of the Common Council and Planning Commission can also be suspended by the City of Mequon in the event of a bona fide disaster. Below are a handful of amendment options the Committee could consider if it wishes to modify existing ordinances.

- Allow the chairs of citizen committees, Common Council, and Planning Commission to have the discretion to call a fully electronic or in-person meeting.
- Afford the flexibility to transition to virtual meetings on shorter notice in the event it is needed in order for a meeting to take place due to the needs of members or for factors such as inclement weather. A 24-hour notice would still be required to maintain compliance with Open Meetings Laws.
- Provide for a set number of fully electronic meeting opportunities or minimum requirement for physical meeting requirements each cycle.

#### **Hybrid Meeting Flexibility**

The City's current ordinances afford hybrid meeting flexibility to members of citizen committees, Common Council, and Planning Commission as long as the minimum number of

members are still physically present at a meeting. First, citizen committees must have a majority (50%) of committee members physically in attendance to hold a hybrid meeting. Members of citizen committees may attend hybrid meetings electronically three times a year. Second, the Common Council and Planning Commission both require a quorum to be physically present to hold a hybrid meeting. Members of the Common Council and Planning Commission may attend electronic meetings two times a year. Below are a handful of amendment options if the Committee wishes to make modifications to existing ordinances for hybrid meetings.

- Increase the maximum number of hybrid meeting attendance opportunities for members of the respective bodies that are currently provided by ordinance.
- Have all meetings run in a hybrid setup to allow in-person or virtual participation.
- Provide residents an on request hybrid meeting option.
- Allow consultants and staff to join meetings electronically as needed.

### Technology Requirements

Technology resources are at the core of allowing for fully electronic and hybrid meetings. During the COVID-19 pandemic, the City implemented some technology upgrades to support the short-term need for limited hybrid meetings for the Common Council and Planning Commission. Those short-term solutions and new technology should be reconsidered if the Committee chooses to expand electronic meetings.

Technology upgrades would be recommended to improve hybrid meetings functionality and accessibility for citizen committees, as well as Standing Committees. Currently, the only conference room of size that can support hybrid meetings well is the North Conference Room at City Hall. The South Conference Room and Lower-Level Conference Room both do not have dedicated technology resources. Staff would recommend all three conference rooms be equipped with the same technology for ease of use and to allow for more than one hybrid meeting to occur at once. Ideally, all three conference rooms would have a professional-grade TV, advanced web camera, computer, and speaker phone.

The Common Council and Planning Commission are both served by the technology in the Common Council Chambers. The current hybrid meeting solution of two TVs on stands isn't ideal for long-term use and doesn't provide a good user experience. Furthermore, the Chamber's audio system is aged and does not provide quality or consistent sound. Staff would suggest doing away with the two TVs on stands and adding screens at the dais for users to better view electronic participants and presentations. The Chamber's analog audio system should be replaced with a contemporary system that provides better audio quality so online participants can hear all parts of the conversation and eliminate current audio problems. Lastly, the projector and the wiring to the projectors are aged. The projector likely requires replacement, reconfiguration, or repairs to improve picture quality.

### Recommendation

Assistant City Administrator Schoenemann will be present to help facilitate a conversation and walk through the three identified topic areas of electronic meetings. Staff will gather the Committee's feedback to bring back further information or a draft ordinance at the Committee's October meeting.

Attachments:

COW Memo from June 2022 (PDF)

CC & PC - Article II - Sec. 2.35 (d) (PDF)

Volunteer Committees - Article IX - Sec. 2.43 (PDF)



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Office of Administration

**TO: Committee of the Whole**  
**FROM: Justin Schoenemann, Assistant City Administrator**  
**DATE: June 23, 2022**  
**SUBJECT: Electronic Participation for Common Council, Planning Commission and Citizen Committee Meetings**

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### **Background**

Alderman Parrish recently inquired about modifying the City's ordinances as it relates to electronic meeting participation at meetings of citizen committees, the Planning Commission, and the Common Council.

In summary, the ordinance that governs citizen committees was established in December 2019. The ordinance allows for a citizen member of a committee to attend a meeting of that committee electronically if the member is physically prevented from attending the meeting by reasons of personal illness or disability, employment-related commitments, attending to business on behalf of the committee, or a family/other emergency. The ordinance provides the ability for members of committees to participate in conversations, vote, and otherwise engage during committee meetings in the same capacity as if they are physically present outside of closed sessions, where no electronic participation is allowed. A majority (50%) of committee members are still required to be physically present to hold a meeting. In order to utilize electronic committee participation, members must notify the City Clerk's Office 24 hours in advance, unless advance notice is impractical due to family or other emergencies. The notice allows the City to document the request, notify the appropriate staff liaison and committee chair, and coordinate any electronic participation resources. Furthermore, the ordinance limits a member's ability to participate electronically to no more than three times a year. A member attending a meeting electronically is not able to continue to participate in the meeting when the committee moves into a closed session. The ordinance also limits members of the Tree Board and the Landmarks Commission from participating electronically when items of monetary value or items that impact property rights are before a committee. This policy can be waived by the City of Mequon in the event of a bona fide disaster, as determined by the City or other governing body.

The Ordinance 2-430 governing citizen committees can be found here: [<https://bit.ly/3a1tBHk>](https://bit.ly/3a1tBHk)

The Common Council and Planning Commission are governed by slightly different ordinance provisions that were established in December of 2021. The ordinance for the City's two main governing bodies states that a quorum of members shall be physically present at a meeting unless a meeting is anticipated to be of a perfunctory nature, such that an entirely virtual or electronic meeting would be more convenient. Any member may not electronically attend more than two meetings in any calendar year. In order to utilize electronic committee participation, members must notify the City Clerk's Office 24 hours in advance, unless advance notice is impractical due to family or other emergencies. The notice allows the City to document the request, notify the Mayor, verify that a quorum is still physically present, and coordinate any electronic participation resources. It should be noted that members are allowed to participate electronically in a closed session, as long a video connection can establish the lack of presence of third parties with the member, which would be detrimental to the purposes of utilizing a closed session.

Attachment: COW Memo from July 2022 (7795 : Electronic Meetings)

Lastly, the ordinance includes a provision that the electronic meeting ordinance can be waived by the City or other governing body, in the event of an emergency or disaster situation.

The Ordinance 2.35 (d) governing the Common Council and Planning Commission can be found here: <https://bit.ly/3QYLDuA>

### **Analysis**

Alderman Parrish shared some potential ordinance considerations a subcommittee could review, such as allowing virtual members to count towards quorum, allowing for virtual participation by staff and residents at meetings, and allowing for flexibility to transition to virtual meetings on shorter notice in the event it is needed in order for a meeting to take place.

### **Recommendation**

If there is interest from the Council to explore additional ordinances amendments beyond what is already allowed, or any other changes to electronic meeting attendance that are not presently reflected in the Mequon Municipal Code, City staff recommends a motion to refer this matter to the Public Welfare Committee for further discussion and consideration.



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Office of Administration

**TO: Public Welfare Committee**  
**FROM: Brian Sajdak, City Attorney**  
**DATE: October 6, 2022**  
**SUBJECT: Nuisances Ordinance Amendments**

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### **December Update**

At the November meeting, proposed revisions to Chapter 50 were presented for the Committee's consideration. The Committee expressed a desire to better clarify the hours of operation related to law equipment and the like, and also to provide consistency between Chapter 50 and the provisions of Section 46-133 relating to construction noise. Presented for the Committee's consideration is revisions to Chapter 50 that better clarify the hours of operation. Add to the packet for Committee's review is changes to Section 46-133, which is proposed to be modified to match the proposed provisions of Chapter 50. Given that there were multiple thoughts as to the appropriate hours, the proposed drafts attempted to bridge the competing proposals. If consensus can be achieved on the proposal, staff will bring back a final proposed ordinance in January, which will also then be included on the Council agenda for a first reading.

### **November Update**

At last month's meeting, the Committee indicated support for a number of concepts that have been incorporated into the proposed revisions that are part of the packet. Specifically, the proposed revisions include the addition of barking dogs (and similar animal noises) and repeated violations of the municipal code as specifically enumerated nuisances. The second of these additions results in consistent treatment for all departments where they continually addressing the same violation/offender. The proposed revisions also address the discrepancy identified by Ald. Schneider related to noise issues. Lastly, the proposed revisions streamlines the process for abating nuisances.

Should the Committee have additional thoughts or proposed modifications, those can be addressed at this month's meeting. The thought would be that the all of the proposed revisions could then be placed into a proposed ordinance which could be presented in December for your consideration.

### **Background**

The Committee has asked to look at the nuisance code for potential amendments. From staff's perspective, the primary need for this review is based on experience and comments from prior mayors concerning the somewhat byzantine process contained in the current code. The current code contains basically two topics. The first topic, consisting of sections 50-1 through 50-4, defines what constitutes a nuisance. The second topic covers the process for abating a nuisance.

### **Discussion**

Of the two topics, the first is the area with little need for suggested changes. The various activities and conditions defined to be nuisances is fairly comprehensive and similar to most other communities. The two things, based on experience, the City may wish to add as explicit public nuisances would be the storage/parking of vehicles and general property maintenance

issues. Examples of this type of language are attached. Similarly, the City's code already contains language about chronic nuisance properties, but this section is limited to excessive police service. This could be expanded to include excessive inspection services also.

The second topic is more complicated. Under the current code, a nuisance complaint that has been made first must be inspected by the health officer or the police chief, who then prepares a written report of findings. If a nuisance exists, the report gets filed with the mayor who then submits them to the clerk for a hearing before the common council. The common council may order the abatement of the nuisance. There are a few problems with this approach. First, the inspecting officer often does not make sense - we don't really have a health officer, and the police department lacks the experience and training to address many potential nuisances (like building code violations). Second, in many cases, nuisance properties often have history with the various departments. In these cases, orders to correct and municipal citations have been utilized but have failed to bring about compliance. Based on that, it is foolish to believe that a new investigation and an appearance before the common council will suddenly make a non-cooperative property owner cooperative. For these reasons, the code should be amended to streamline the process and to ensure that the appropriate city officials are involved in the proposes. Sample language for this is also attached.

### **Recommendation**

At the Committee meeting, staff is looking for direction on which proposed changes should be made. In addition, if there are other areas of concern, staff looks forward to hearing these concerns so that proposed corrections can be made.

Attachments:

Sec. 46\_133.\_\_\_\_Loud\_noise\_prohibited Revisions. (DOCX)

Ordinance updating chapter 50 - Nuisances - December Revisions (DOCX)

Germantown Nuisance Examples (DOCX)

Franklin Nuisance Examples (PDF)

## PROPOSED REVISIONS

**Sec. 46-133. Loud noise prohibited.**

- (a) *Declaration of intent.* It is the intent of this section to control the creation of noise generated by construction related activities only. Noise created by approved industrial or commercial operations, recreation vehicles and emergency, agricultural, public works, lawn maintenance or snow removal equipment are not to be regulated by the following requirements. Some of the aforementioned uses are regulated by other existing ordinances and shall continue to be so regulated.
- (b) *Construction noise.* No person, firm or corporation shall at any time between the hours of 9:00 p.m. and 7:00 a.m. on Monday through Friday, and ~~10:00~~5:00 p.m. and ~~8~~9:00 a.m. on Saturday, Sunday and public holidays create any loud or sharp noises, concussions or disturbing sounds associated with the construction, excavation, demolition, alteration or repair of any building or development such as may tend to annoy or disturb any person. For purposes of enforcement of this article, public holidays shall include New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day~~-, and the day of the~~ week shall be based upon the day on which the time period ends (e.g., from 10:00 p.m. Friday night to 8:00 a.m. Saturday morning shall be deemed a Saturday).

Attachment: Sec. 46\_133. Loud\_noise\_prohibited Revisions. (7794 : Nuisances Ordinance)

## Proposed Revisions

Additions are underlined; Deleted text is ~~struck through~~

## **ARTICLE I. IN GENERAL**

### **Sec. 50-1. Public nuisance defined and prohibited.**

- (a) A public nuisance is a thing, act, occupation or use of property, which shall repeatedly occur or continue for a sufficient length of time so as to:
  - (1) Injure or endanger the safety, health, comfort or repose of the public;
  - (2) Offends public morals or decency;
  - (3) Unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for passage a lake, navigable river, bay, stream, canal or basin or a public park, square, street, alley or highway;
  - (4) In any way render the public insecure in life or in the use of property;
  - (5) Generate three or more calls for police service for nuisance activities which occur at a premises, within a calendar year, in accordance with section 50-6 below.
- (b) In all cases where no provision is herein made defining what are nuisances and how the same may be removed, abated, or pre-vented, in addition to what may be declared herein, those offenses which are known to the common law of the land and the Wisconsin Statutes as nuisances, may, in case the same exist within the city limits, be treated as such offenses and proceeded against as provided in this section or in accordance with other provisions of law.
- (c) No person shall within the city, cause or create a public nuisance or permit a public nuisance to remain on premises owned or occupied by him.

### **Sec. 50-2. Public nuisances affecting health.**

- (a) No person shall within the City of Mequon, cause or create any public health nuisance or permit any public health nuisance to remain on premises owned or occupied by him.
- (b) The following are hereby specifically declared to be nuisances affecting the public health:
  - (1) All decayed, spoiled, tainted, unwholesome or harmfully adulterated food, drink or drugs offered for sale to the public;
  - (2) All ponds or pools of stagnant water in which mosquitoes, flies or other insects can multiply;
  - (3) Carcasses of animals or fowl not buried, destroyed or otherwise disposed of in a sanitary manner within 24 hours after death;
  - (4) Accumulations of decayed animal or vegetable matter, trash, manure, rubbish, rotting lumber or other debris to which are attracted flies, mosquitoes, insects, rats or other vermin;
  - (5) Privy vaults and garbage cans which are not fly tight;
  - (6) Pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial waste or other substances;
  - (7) All noxious weeds as follows: Canada thistle, leafy spurge, field bindweed (creeping Jenny), and burdock, poison ivy, common ragweed and giant ragweed;
  - (8) Dense smoke, noxious fumes, gas, soot, cinders, fly ash or industrial dust in such quantities as to render the occupancy of property dangerous or uncomfortable to a person of ordinary sensibilities;

- (9) Any dilapidated structure or building which harbors or is infested with vermin or rodents.
- (10) The presence of wastewater or sewage effluent from buildings on the ground surface, backing up into the building and/or running into a surface water body, caused by a damaged, malfunctioning, improperly constructed or inadequately maintained private sewage system or private sewage lateral; also, any wastewater or sewage effluent that is not handled and disposed of in compliance with all applicable county and state codes.

### **Sec. 50-3. Public nuisances affecting morals and decency.**

- (a) No person shall within the City of Mequon, cause or create a public morals or decency nuisance or permit such nuisance to remain on premises owned or occupied by him.
- (b) The following are hereby specifically declared to be public nuisances offending public morals and decency:
  - (1) All gambling devices, slot machines and punch boards, except as approved by the state;
  - (2) All houses kept for the purpose of prostitution or gambling.

### **Sec. 50-4. Public nuisances affecting peace and safety.**

- (a) No person shall within the City of Mequon, cause or create a public peace or safety nuisance or permit such nuisance to remain on premises owned or occupied by him.
- (b) The following are specifically declared to be nuisances disturbing the public peace or endangering the public safety:
  - (1) All trees, hedges, billboards of other obstructions which prevent persons driving automobiles or other vehicles on the city streets from having a clear view of traffic approaching an intersection from cross streets;
  - (2) ~~All loud, discordant or unnecessary noises and annoying vibrations~~ Making, continuing or causing to be made any loud, discordant, disturbing or unnecessary sounds or noises and/or annoying vibrations emanating from or in the proximity to a premises by persons associated with that premises, such as horns, whistles, music amplification equipment, public address systems, which would tend to annoy or disturb a person of ordinary sensibilities in the proximity of the premises;
  - (3) All open or unguarded wells, cisterns, pools or excavations so located as to endanger public safety or the safety of children;
  - (4) All buildings, walls and other structures, which have been damaged by fire, decay or otherwise to an extent exceeding one-half their assessed value;
  - (5) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;
  - (6) All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as an official traffic control device placed or maintained upon or in view of any public highway, street, alley or railway crossing;
  - (7) All hanging signs, awnings and other similar structures over the streets, alleys or public ways of the city or projecting more than six feet over the sidewalks or so situated or constructed as to endanger the public safety;
  - (8) All tree limbs which are less than ten feet above the surface of any public sidewalk or 14 feet above the surface of any street;
  - (9) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

- (10) The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.
- (11) Keeping, harboring or maintaining any domestic pet which howls, barks, screeches, whines, cries or similar sounds which may be heard beyond the boundary of the property of the owner, keeper or harborer so as to materially interfere with or affect the health, comfort, peace and quiet of the public, or the reasonable use and enjoyment of the neighboring residential properties where the animal sounds are shown to have occurred either as an episode of continuous noise lasting for a minimum period of fifteen (15) minutes, or repeated episodes of intermittent noise lasting for a minimum period of thirty (30) minutes. It shall be an affirmative defense under this division that the animal was intentionally provoked by a party other than the owner to make such noise.
- (12) The operation of construction or repair machinery, recreational vehicles, garden and lawn equipment, or the like between the hours of 9:00 p.m. and 7:00 a.m. on Monday through Friday, or 10:00 p.m. and 8:00 a.m. on Saturday, Sunday and public holidays. For the purposes of this section, public holidays shall include New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, and the day of the week shall be based upon the day on which the time period ends (e.g., from 10:00 p.m. Friday night to 8:00 a.m. Saturday morning shall be deemed a Saturday). This section shall not apply to emergency operations related to utility repairs, municipal operations (including snow removal) or agricultural operations.

#### Sec. 50-5. Abatement of nuisances.

- (a) ~~Inspection of premises. Whenever complaint is made to the mayor by a private citizen or any official or employee of the city that a public nuisance exists within the City of Mequon, the mayor, official or employee shall promptly notify the health officer and the chief of police who shall inspect or cause to be inspected the premises upon which such nuisance is alleged to exist and shall make a written report of their findings to the mayor.~~ Enforcement. The chief of police, the chief of the Southern Ozaukee Fire and Emergency Medical Services Department, director of the community development department, city engineer, and the building inspector shall have the power and authority to enforce those provisions of this chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the appropriate official shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has been satisfied that a nuisance does in fact exist.
- (b) *Summary abatement procedure.*
- (1) ~~Notice to owner or occupant.~~ If the inspecting official shall determine that a public nuisance exists on private property within the city and that there is great and immediate danger to the public health, safety, morals, decency or peace, the mayor shall direct the chief of police to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or upon the occupant of the premises where such nuisance is caused, permitted or maintained, and, if the owner is a non-resident or cannot be found, and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant, as the case may be, to abate or remove such nuisance within a reasonable time of not less than 24 hours and shall state that unless such nuisance is so abated, the city will cause the same to be abated and will charge the cost thereof to the person causing, permitting or maintaining the nuisance, owner or occupant as the case may be.
- (2) ~~Failure of owner or occupant to abate nuisance~~ Abatement by city. ~~If the owner or occupant fails to comply with the aforesaid notice within the time limited or if he cannot be found, the health officer, in the case of health nuisances, and the chief of police in all other cases shall cause the abatement or removal of such public nuisance. If the nuisance is not abated within the time provided or if the owner,~~

occupant or person causing the nuisance cannot be found, the inspecting official shall cause the abatement or removal of such public nuisance.

- (c) *Abatement in other cases.* If the inspecting official shall determine that a public nuisance exists within the city, but that the nature of such nuisance does not threaten great and immediate danger to the public health, safety, peace, morals, decency or peace, the mayor shall direct the inspecting official to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained, and, if the owner is a non-resident or cannot be found, to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant, as the case may be, to abate or remove such nuisance within a reasonable time of not less than 10 days. . If such nuisance is not abated or removed within 10 days, the inspecting official shall report such fact to the mayor, who may direct the city attorney to commence an action in circuit court for the abatement of the nuisance.
- (1) *Notice to owner or occupant.* If the inspecting official shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, morals, decency or peace, they shall file written reports of their findings with the mayor, who shall forthwith direct the city clerk to issue a notice to the owner or occupant of the premises requiring him to appear before the common council at a regular or special meeting thereof on the day and time appointed by the mayor and then and there show cause, if any there be, why said nuisance should not be abated and removed at the cost and expense of the owner or occupant, as the case may be. A copy of said notice shall be served upon the owner or occupant of said premises by the chief of police at least ten days prior to the date set for hearing, or if the owner of the premises is a non-resident or cannot be found, a copy of such notice shall be published in the official newspaper and a like copy mailed to the owner directed to his last known address as shown by the records of the city treasurer at least 15 days before the date set for hearing.
- (2) *Hearing.* At the time set for hearing the common council shall hear testimony relative to the facts and shall enter written findings thereon. If the council shall find that the public nuisance exists on said premises or is kept or maintained or allowed by the owner or occupant, it shall order the owner or occupant, as the case may be, to abate the same.
- (3) *Failure of owner or occupant to abate.* In the event that the owner or occupant shall fail to comply with the order of abatement of the common council, the council shall, without further notice, order the chief of police to comply therewith and to make return of the cost and expense of abating or removing such nuisance to the city treasurer.
- (d) *Cost of abating nuisance.* In addition to any other penalty imposed under this chapter for the maintenance of a nuisance, the cost of abating or removing a nuisance by the city shall be collected from the owner or occupant or person causing, permitting or maintaining said nuisance or, if notice to abate such nuisance has been given to the owner, such costs may be charged against the premises and assessed against the real estate as another special taxes charge.
- (e) *Remedies not exclusive.* In addition to the methods of abatement of public nuisances specified in this section, the mayor or common council may also institute an action in the Ozaukee County circuit court for abatement of any public nuisance existing within the limits of the City of Mequon in accordance with the provisions of Wis. Stats. ch. 823. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the city or its officials in accordance with the laws of the State, nor as prohibiting an action to be commenced in the circuit court seeking a forfeiture as provided in section 1-7 of this Code.

## **Sec. 50-6. Chronic nuisances premises.**

- (a) *Findings.* The city council finds that any premises that generates three or more responses in a one year period by the police department for nuisance activities as defined in subsection (b) below, has received more than the appropriate level of general and adequate city service and has placed an undue and inappropriate

burden on the taxpayers of the city. The common council therefore authorizes the chief of police, as provided in this chapter, to require the premises owner or occupant to comply with nuisance abatement plans and to charge the owner or occupant of such premises the costs associated with abating the violations at the premises where nuisance activities chronically occur as set forth in section 50-9.

- (b) *Definitions.* The following terms shall be defined as follows in this article, and the singular includes the plural and the plural includes the singular:

*Chief* means the chief of police or his or her designee.

*Owner* means a person who has legal title or possession, charge, care or control of premises, including as executor, administrator, trustee, or guardian of the estate of a person or property.

*Person* includes a corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, limited liability company or any other legal entity.

*Person associated with premises* means the premises owner, operator, manager, resident, occupant, guest, visitor, or person present on the premises (other than trespasser) or employee or agent of any of the above persons associated with the premises.

*Police department response* means a sworn, on-duty city police officer is dispatched to a premises in response to a good faith report of nuisance activity, as defined below, occurring or having occurred at the premises, which complaint said officer finds to be credibly supported during his/her investigation, and which results in an arrest, or the issuance of a citation, or a criminal or juvenile complaint.

*Premises* means an individual building, dwelling, or dwelling unit and associated common areas or vacant land.

*Nuisance activity* means any of the following activities, behaviors, or conduct whenever engaged in by persons associated with a premises that causes or results in:

- (1) An act of harassment, as defined in Wis. Stats. § 947.013;
- (2) Disorderly conduct, as defined in Wis. Stats. § 947.01;
- (3) Battery, substantial battery, or aggravated battery, as defined in Wis. Stats. § 940.19;
- (4) Lewd and lascivious behavior, as defined in Wis. Stats. § 944.20;
- (5) Prostitution, as defined in Wis. Stats. § 944.30;
- (6) Theft, as defined in Wis. Stats. § 943.20;
- (7) Receiving stolen property, as defined in Wis. Stats. § 943.34;
- (8) Arson, as defined in Wis. Stats. § 943.02;
- (9) Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in Wis. Stats. Ch. 961;
- (10) Gambling, as defined in Wis. Stats. § 945.02;
- (11) Trespassing, as defined in Wis. Stats. §§ 943.13 and 943.14;
- (12) The execution of arrest or search warrants at a particular premises;
- (13) Alcohol violations, as defined in section 14-24 of the Code, and Wis. Stats. § 125.07;
- (14) Obstructing or resisting an officer, as defined in Wis. Stats. § 946.41;
- (15) Violation of occupancy restrictions, as defined in the Code;

- (16) Any conspiracy to commit, as defined in Wis. Stats. § 939.31, or attempt to commit, as defined in Wis. Stats. § 939.32, any of the activities, behaviors, or conduct enumerated in this subsection (b);
- (17) Making, continuing or causing to be made any loud, disturbing or unnecessary sounds or noises emanating from or in the proximity to a premises by persons associated with that premises, such as horns, whistles, music amplification equipment, public address systems; ~~and construction or repair machinery or garden and lawn equipment between the hours of 10:00 p.m. and 6:00 a.m., which would tend to annoy or disturb a person of ordinary sensibilities in the proximity of the premises.~~

(18) Repeated or continual violations of § 46-133 related to construction noise.

(19) Continual or repeated operation of garden or lawn equipment between the hours 9:00 p.m. and 7:00 a.m. on Monday through Friday, or 10:00 p.m. and 8:00 a.m. on Saturday or Sunday. For the purposes of this section, public holidays shall include New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, and the day of the week shall be based upon the day on which the time period ends (e.g., from 10:00 p.m. Friday night to 8:00 a.m. Saturday morning shall be deemed a Saturday).

(c) *Chronic nuisance notice to property owner.* Whenever the police department has responded to three or more nuisance activities that have occurred at a premises during any consecutive 12-month period, the chief may notify the premises owner or occupant in writing that the premises constitutes a chronic nuisance. In calculating the requisite nuisance activities, the chief may count separate qualifying nuisance activities occurring on the same day (as long as they are distinct in time) or different days and further may consider whether or not to count a qualifying nuisance activity when it is reported by a person associated with the premises under circumstances that would encourage and not penalize self-reporting and facilitate police response for the benefit of the community.

Pursuant to Wis. Stats. § 66.0627(7), police department responses related to (a) domestic abuse, as defined in § 813.12 (1) (am), (b) sexual assault, as described under §§ 940.225, 948.02, and 948.025, or (c) stalking, as described in § 940.32 shall not be used in calculating the nuisance activities to constitute a chronic nuisance.

The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner.

(d) The notice required in subsection (c) above shall be deemed to be properly delivered if sent either by first class mail to the premises owner's or occupant's last known address (deemed delivered on third day after depositing in mail) or if delivered in person to the premises owner. If the premises owner or occupant cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's or occupant's usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first class mail to the last known address of the owner or occupant as listed in city records.

## **Sec. 50-7. Abatement plan.**

Any owner receiving notice pursuant to section 50-6 shall meet with the chief within five days of receipt of such notice. The parties shall review the nuisance activities occurring at the premises for the purpose of determining the appropriate abatement plan for the premises. Within ten days of this meeting unless the chief agrees in writing to a longer period, the owner shall comply with the abatement plan agreed upon with the chief to end the nuisance activity on the premises. The plan shall also specify a name, address, telephone number and if applicable a fax number and e-mail address of a person living within 60 miles of the premises who can be contacted in the event of further police, fire, or inspection contact.

### **Sec. 50-8. Penalties for failure to comply with abatement plan.**

Any person failing to comply with the abatement plan under section 50-7 shall be subject to a penalty as provided under section 1-7 of the Code.

### **Sec. 50-9. Additional nuisance activity.**

If additional nuisance activity shall occur within 12 months after the notice authorized under subsection 50-6(c) has been issued to the owner or occupant, and this additional nuisance activity has occurred not less than 15 days after such notice had been served, and the chief determines that reasonable efforts have not yet been made to abate the nuisance activity, then the chief shall calculate the cost of police department personnel response for this additional and any subsequent nuisance activities occurring within 12 months of the last nuisance activity, and shall prepare a statement of such costs to be assessed to the owner or occupant of the premises as a special charge against the property. The chief shall send the assessment of the cost of police response to the premises owner or occupant and notify the owner or occupant in writing that the assessment must be paid within 30 days or it will be levied and collected as a special charge pursuant to Wis. Stats. § 66.0627. This assessment of police costs and the notice shall be prepared and delivered in the manner provided for in section 50-6, and the chief shall provide a copy to the office of the city treasurer.

### **Sec. 50-10. Eviction or retaliation prohibited.**

- (a) It shall be unlawful for a landlord to terminate the lease agreement or periodic tenancy of any tenant or otherwise retaliate against any tenant because that tenant complained to the chief about nuisance activity on the landlord's premises. It shall be presumed that any attempt to increase charges, reduce services, or to otherwise harass or retaliate against the tenant during the twelve-month period following receipt of the complaint by the chief constitutes unlawful retaliation under this subsection. Such presumption shall be rebutted by the preponderance of evidence that the actions taken by the landlord were based upon good cause. "Good cause" as used in this subsection means that a landlord must show good cause for his or her actions, other than one related to or caused by the operation of this section. Notwithstanding the foregoing, a tenant's lease agreement or periodic tenancy may be terminated for a failure to pay rent; committing nuisance activity as defined in section 50-67; violating the terms and conditions of the lease agreement or periodic tenancy or as otherwise provided in Wis. Stats. ch. 709, and ch. Ag. 134, Wis. Adm. Code. A landlord's failure to renew a lease agreement or periodic tenancy upon expiration of such lease agreement or periodic tenancy shall not be deemed a violation of this subsection.
- (b) Any person violating the above section shall be subject to a penalty as provided under section 1-7 of the Code.

### **Sec. 50-11. Appeal.**

The chief's decision under sections 50-6 through 50-9 may be appealed to the board of appeals in accordance with the provisions of section 58-41 of the Code, except that any appeal of the chief's decision(s) under sections 50-6 through 50-9 of the Code must be filed within 15 days of receipt of the written decision or order being appealed. The board of appeals, after deciding such appeal(s) under this article, shall transmit a signed copy of the board's decision to the appellant and to the chief.

### **Secs. 50-12—50-80. Reserved.**

## 10.06 JUNK AND JUNKED VEHICLES.

- (1) **PUBLIC NUISANCES DECLARED.** The following are hereby declared to be public nuisances wherever they may be found within the Village:
  - (a) Any motor vehicle, truck body, tractor or trailer as enumerated in subsection (2) below and defined in subsection (4)(a), (b) and (c) below.
  - (b) Any junk as set forth in subsection (3) below and defined in subsection (4)(d) below.
- (2) **STORAGE OF VEHICLES RESTRICTED.**
  - (a) No person shall accumulate, store or allow any disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors, or trailers in the open upon any property within the Village for a period exceeding 10 days unless it is in connection with an automotive sales, repair or storage business enterprise located in a properly zoned area, or a junk yard licensed under section 12.17 of this Code.
  - (b) Any business engaged in automotive sales or repair may retain such vehicles in the open, on private property, for a period not to exceed 30 days, after which such vehicles must be removed.
- (3) **STORAGE OF JUNK PROHIBITED.** No person, except a junk dealer licensed under section 12.17 of this Code, shall accumulate, store or allow any junk outside of any building on any real estate located in the Village.
- (4) **DEFINITIONS.**
  - (a) Disassembled, Inoperable, Junked or Wrecked Motor Vehicles, Truck Bodies, Tractors, Trailers. Motor vehicles, truck bodies, tractors or trailers in such state of physical or mechanical ruin as to be incapable of propulsion or being operated upon the public streets or highways.
  - (b) Unlicensed Motor Vehicles, Truck Bodies, Tractors or Trailers. Motor vehicles, truck bodies, tractors or trailers which do not bear lawful current license plates.
  - (c) Motor Vehicle. As defined in §340.01(35), Wis. Stats.
  - (d) Junk. Worn out or discarded material of little or no value including, but not limited to, household appliances or parts thereof, machinery and equipment or parts thereof, tools, discarded building materials, or any other unsightly debris, the accumulation of which has an adverse effect upon neighborhood or Village property values, health, safety or general welfare.
- (5) **ISSUANCE OF CITATION; ACTION TO ABATE.** Whenever the Police Department shall find any such vehicle or junk, as defined in subsection (4) above, accumulated, stored or remaining in the open upon any property within the Village contrary to the provisions of subsections (2) and (3) above, they shall notify the owner of said property on which such vehicle or junk is located of the violation of this section. If such vehicle or junk is not removed within 10 days, the Police Department shall cause a citation to be issued to the property owner or the occupant of the property upon which such vehicle or junk is located. In addition, action to abate such nuisance may be commenced, as provided in section 10.07(3) of this chapter.
- (6) **PENALTY.** (Am. Ord. #43-98) Any person who shall be adjudicated to have violated any of the provisions of this section shall be subject to a penalty as provided in section 25.04 of this Code. Each day that a violation of this section continues shall be deemed a separate offense.

State law reference(s)—Abandoned vehicles, Wis. Stats. § 342.40.

### 10.065 PROPERTY MAINTENANCE CODE. (Cr. Ord. #38-87)

- (1) **TITLE.** This section shall be known as "The Property Maintenance Code," and may be referred to in this section as "this code".

- (2) **FINDINGS AND DECLARATION OF POLICY.** It is hereby found and declared that there exist, in the Village, structures used for residential and nonresidential use which are, or may become in the future, substandard with respect to structure, equipment or maintenance or, further, that such conditions, including, but not limited to, structural deterioration, lack of maintenance and appearance of exterior of premises, infestation and existence of fire hazards constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the Village. It is further found and declared that, by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums, and that if the same are not curtailed and removed, these conditions will grow and spread and will necessitate, in time, the expenditure of large amounts of public funds to correct and eliminate such conditions, and that, by reason of timely regulations and restrictions contained in this code, the desirability and amenities of residential and nonresidential uses and neighborhoods may be enhanced and the public health, safety and welfare protected and fostered.
- (3) **PURPOSE.** The purpose of this code is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance and condition of residential and nonresidential premises; to fix certain responsibilities and duties upon owners and operators and distinct and separate responsibilities and duties upon occupants; to authorize and establish procedures for the inspection of residential and nonresidential premises; and to provide for the repair, demolition or vacation of premises unfit for human habitation, occupancy or use.
- (4) **DEFINITIONS.** The following words and terms, wherever used herein or referred to in this code, shall have the respective meanings assigned to them unless a different meaning clearly appears from the context;
- (a) Deterioration. (Am. Ord. #23-97) The condition of a building or part thereof characterized by holes, breaks, rot, crumbling, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use. All exterior wood and composition surfaces shall be properly protected from the elements and against decay by paint, stain or other protective coating and applied in a workmanlike manner.
  - (b) Elements. Any element, whether created by nature or by man, which, with reasonable foresee ability, could carry litter from one place to another. Elements shall include, but not be limited to, air current, rain, water current and animals.
  - (c) Exposed to Public View. Any premises, or any part thereof, or any building, or any part thereof, which may be viewed by the public.
  - (d) Exterior of the Premises. Open space on the premises outside of any building thereon.
  - (e) Extermination. The control and elimination of insects, rodents and vermin.
  - (f) Garbage. Decayed and decomposed animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food. (See also Refuse and Rubbish.)
  - (g) Infestation. The presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard.
  - (h) Litter. Includes any uncontainerized man-made or man-used waste which, if deposited within the Village otherwise than in a litter receptacle, tends to create a danger to public health, safety and welfare or to impair the environment of the citizens of the Village. Litter may include, but is not limited to, any garbage, trash, refuse, confetti, debris, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic or paper container or other construction material, motor vehicle part, furniture, oil, carcass of a dead animal or nauseous or offensive matter of any kind or any object likely to injure any person or create a traffic hazard.
  - (i) Mixed Occupancy. Any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to nondwelling uses or used as a hotel.

- (j) Nuisance.
1. Any public nuisance, as defined by statute or this chapter.
  2. Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the conditions exist.
- (k) Operator. Any person who has charge, care or control of a dwelling or premises, or part thereof, whether with or without the knowledge and consent of the owner.
- (l) Owner. Any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof. Any person who is a lessee subletting or reassigning any part or all of any dwelling or dwelling unit shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.
- (m) Park. A public or private park, reservation, play ground, beach, recreation center or any public or private area devoted to active or passive recreation or any other area under the supervision of the Village.
- (n) Parking Lot. Any private or public property with provisions for parking vehicles to which the public is invited or which the public is permitted to use or which is visible from any public place or private premises.
- (o) Premises. A lot, plot or parcel of land, including the buildings or structures thereon.
- (p) Private Premises. Any dwelling house, building or other structure designed to be used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, mailbox or other structure belonging or appurtenant to such dwelling house, building or other structure.
- (q) Public Place. All streets, boulevards, avenues, lanes, alleys or other public ways and parks, squares, plazas, grounds and buildings frequented by the general public, whether publicly or privately owned.
- (r) Refuse. All decayed and decomposed solid waste, except body wastes, including, but not limited to, garbage, rubbish, ashes, dead animals, abandoned automobiles and solid wastes. (See also Garbage and Rubbish.)
- (s) Rubbish. Solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials. (See also Garbage and Refuse.)
- (5) **APPLICABILITY**. Every residential, nonresidential or mixed-occupancy building and the land on which it is situated, used or intended to be used for dwelling, mobile home park, commercial, business or industrial occupancy shall comply with the provisions of this code, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this code.
- (6) **DUTIES AND RESPONSIBILITIES OF OWNERS AND OPERATORS.**
- (a) Maintenance of Exterior of Premises. The exterior of the premises and all structures thereon shall be kept free of all nuisances and any hazards to the safety of the occupant, pedestrians and other persons utilizing the premises, and free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of hazards which include, but are not limited to, the following:
1. Refuse, such as brush, weeds, broken glass, stumps, obnoxious growths, filth, garbage, trash and debris.

2. Natural growth, such as dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity. Trees shall be kept pruned and trimmed to prevent such conditions.
  3. Overhangs, such as loose and overhanging objects which, by reason of location above ground level, constitute a danger of falling on persons in the vicinity.
  4. Sources of infestation.
  5. The exterior of the premises, the exterior of structures and the condition of accessory structures shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor.
- (b) Storage of Commercial and Industrial Material . There shall not be stored or used at a location visible from the sidewalk, street or other public areas, equipment and materials relating to commercial or industrial use unless permitted under chapter 17 of this Code for the premises.
- (c) General Maintenance . The exterior of every commercial structure or accessory structure, except accessory farm structures, including fences or enclosures, shall be maintained in good repair. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint, loose boards or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated and adjoining properties protected from blighting influences.
- (7) **LITTER CONTROL.**
- (a) Litter Collection and Storage Area . Every owner, occupant or lessee of a building used for residential, business or commercial purposes shall maintain litter collection and storage areas in a clean condition and insure that all litter is properly containerized. Failure to so maintain clean litter collection and storage areas shall constitute a violation of this subsection.
- (b) Duty to Collect Litter Before it is Carried From the Premises . All litter that is subject to movement by the elements shall be secured by the owner of the premises where it is found before the litter is allowed to be removed from the premises by the elements.
- (c) Neglected Premises Visible to the Public . It shall be the duty of any person owning or controlling any premises, including vacant lots visible from any public place or private premises, to maintain such premises in a reasonably clean and orderly manner. It shall be a violation of this subsection to abandon, neglect or disregard the condition or appearance of any premises so as to permit it to accumulate litter.
- (d) Areas Around Business Premises . The owner or person in control of any public place, including, but not limited to, restaurants, shopping centers, fast food outlets, stores, hotels, motels, industrial establishments, office buildings, apartment buildings, housing projects, gas stations, hospitals and clinics shall at all times keep the premises clean of all litter and shall take measures, including daily cleanup of the premises, to prevent litter from being carried by the elements to adjoining premises. It shall be a violation of this subsection to abandon, neglect or disregard the condition or appearance of such premises so as to permit it to accumulate litter.
- (e) Loading and Unloading Docks . The person owning, operating or in control of a loading or unloading dock shall at all times maintain the dock area free of litter in such a manner that litter will be prevented from being carried from the premises by the elements.
- (f) Construction Sites . The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that litter will be prevented from being carried from the premises by the elements. All litter from construction activities or any related activities shall

be picked up at the end of each work day and placed in containers which will prevent litter from being carried from the premises by the elements.

- (g) Maintaining Sidewalks and Alleys. Persons owning, occupying or in control of any premises shall keep the sidewalks and alleys adjacent thereto free of litter. Owners or occupants shall sweep or rinse off the sidewalks abutting their premises as often as may be required to keep the walk reasonably free from dirt, paper and waste. This paragraph shall not apply to side walks maintained by the Village as provided in section 8.09(1)(a) of this Code.
- (h) Abandoned Garbage. It shall be unlawful for any person who is in control of any premises upon which is located or on whose behalf there is maintained any container of refuse, waste or garbage, which has been containerized in accordance with a contract for its removal, to allow that refuse, waste or garbage to remain uncollected for longer than 7 days or, in any case, until after that refuse, waste or garbage creates any condition which is offensive to persons upon any private premises or public place.
- (i) Animal Excreta. (Am. Ord. #45-92, Am. Ord. #42-02)
  - 1. *Allowing Discharge Regulated*. It is unlawful for any owner, keeper or walker of any dog, Philippine pot-bellied pig or cat to have his dog, pot-bellied pig or cat discharge such animal's feces upon any public or private property within the Village other than the property of the owner of such dog, pot-bellied pig or cat if such owner, keeper or walker does not immediately thereafter remove and clean up such animal's feces from the public or private property.
  - 2. *Carrying Feces Scoop Required*. No person shall walk a dog or pot-bellied pig beyond the limits of his own property without carrying or having in his possession a scoop, bag or other items designed to pick up and remove dog feces; and, further, it is unlawful for any person to dispose of the dog or pot-bellied pig feces on public or private property other than his own.
  - 3. *Exception*. This subsection shall not apply to blind persons having control of guide dogs.

(7a) **LAWN AND YARD MAINTENANCE.** (Cr. Ord. #29-94)

- (a) Definitions. The terms used herein are defined as follows:
  - 1. *Turf Grass*. Grass commonly used in regularly cut lawns or play areas such as, but not limited to, blue grass, fescue and rye grass-blends.
  - 2. *Natural Lawn*. Any land managed to preserve or restore native Wisconsin grasses and forbes, native trees, shrubs, wild-flowers and aquatic plants.
- (b) General Lawn Requirements. (Rep. & Recr. Ord. #06-15)
  - 1. The owner or occupant of any lot or parcel in the Village shall install and maintain landscaping, plantings and other decorative surface treatments, including turf grass, so as to present an attractive appearance in all court and yard areas in accordance with generally accepted landscaping practices in southeastern Wisconsin. Lawns shall be maintained to a height not to exceed 12 inches. Plantings shall be maintained so as not to present hazards to adjoining properties or to persons or vehicles traveling on public ways and shall be maintained so as to enhance the appearance and value of the property on which located and thereby the appearance and value of the neighborhood and the Village.
  - 2. The provisions of this paragraph (b) do not apply to:
    - i. Any lot or parcel located within an agricultural zoning district that is more the 5 acres in size and is actively put to agricultural use.
    - ii. Any lot or parcel excepted from these provisions as provided in paragraph (c) below.

- (c) Natural Lawn Exception; Registration and Fee. Any owner or occupant of a lot or parcel subject to paragraph (b) above and desiring a natural lawn may register for a natural lawn, as defined in paragraph (a)2., above, where grasses and forbes exceed 12 inches in height, with the Village Weed Commissioner, provided that such plantings meet the requirements of this subsection. The Weed Commissioner shall provide registrants with a copy of this subsection. A copy of the lot survey should be submitted showing the area to be planted, a list of plants, seeds or forbes to be planted must be submitted and whether the property will be cultivated prior to planting or have plugs inserted in the area. The registration shall be accompanied by a fee of \$15.00.
- (d) Maintenance of Setbacks and Drainage Swales. A 10-foot setback on any street frontage and a 5-foot side and rear setback of all natural lawns shall be maintained in accordance with paragraph (j) above. In addition, all drainage swales shall be free of plantings and maintained in accordance with paragraph (b) above. Adjacent neighbors may agree to waive setbacks for encroachment on setbacks outside drainage swales; such waivers shall be in writing and filed with the Weed Commissioner. In addition, a 5% area exclusive of the setback area shall be left open for maintained paths. The setback area shall have a height of no more than 12 inches, excluding trees and shrubs.
- (e) Weeds and Plants Prohibited. The owners and occupants of all natural lawns shall destroy all of the following weeds and plants:
1. Canada thistle and all other thistle varieties.
  2. Leafy spurge.
  3. Field bindweed (Creeping Jenny).
  4. Purple loosestrife.
  5. Multiflora rose.
  6. Burdock.
  7. Ragweed.
  8. Garlic mustard.
  9. All weeds enumerated in §§66.955 and 66.96, Wis. Stats.
  10. Turf grass, except in setback areas and designated paths.
- (f) Review and Approval of Land Management Plans. The Weed Commissioner shall review the list of all registered properties within 30 days of the submittal and notify in writing the owner or occupant of any noncompliance of this subsection. The person receiving such notice of noncompliance shall comply with the requirements of this subsection within 10 days of such notification.
- (g) Enforcement. In the event any previously approved natural lawn fails to comply with the requirements of this subsection, such premises shall be deemed a nuisance under this chapter and the Weed Commissioner may order the nuisance abated within 7 days pursuant to section 10.08 of this chapter.
- (h) Appeal. Any person aggrieved by the written determination of the Weed Commissioner to revoke such registration or to abate a nuisance thereto may file a written appeal within 7 days of receiving such written determination with the Health, Education and Welfare Committee. The appeal shall state the reasons for reviewing the determination of the Weed Commissioner. After giving a Class 1 notice, the Committee shall hold a hearing and decide the matter within a reasonable time. The Committee may reverse, affirm or modify the determination of the Weed Commissioner and issue an order accordingly.
- (8) **ENFORCEMENT**. This section shall be enforced by the Building Inspector. In addition, the Police Chief shall enforce subsection (7) above.

- (9) **PENALTY.** Any person who violates, disobeys, neglects or refuses to comply with any of the provisions of this section shall be subject to a forfeiture as provided in section 25.04 of this Code.

## 10.07 ABATEMENT OF PUBLIC NUISANCES.

- (1) **ENFORCEMENT.** (Am. Ord. #08-09) It shall be the duty of the Chief of Police, the Fire Chief and the Building Inspector to enforce those provisions of this chapter that come within the jurisdiction of their offices and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist.
- (2) **SUMMARY ABATEMENT.**
- (a) Notice to Owner. If the inspecting officer shall determine that a public nuisance exists within the Village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Village Administrator may direct the Chief of Police to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- (b) Abatement by Village. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.
- (3) **ABATEMENT BY COURT ACTION.** If the inspecting officer shall determine that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance and the owner of the property to remove the same within 10 days. If such nuisance is not removed within 10 days, he shall report such fact to the Village Administrator, who may direct the Village Attorney to commence an action in Circuit Court for the abatement of the nuisance.
- (4) **OTHER METHODS NOT EXCLUDED.** Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the State, nor as prohibiting an action to be commenced in the Circuit Court seeking a forfeiture as provided in section 10.09 of this chapter.
- (5) **COST OF ABATEMENT.** In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

City of Franklin, WI  
Thursday, October 6, 2022

## Chapter 178. Nuisances

### § 178-7. Storage and parking regulated.

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

**DISREPAIR**

Any RV which is unsightly due to a failure to internally or externally be kept in a good state of maintenance.

**DRIVEWAY**

A paved or unpaved surface providing ingress and egress from a public right-of-way to a structure located on the property.

**DWELLING**

A building or portion thereof, designed or used for residential occupancy.

**HABITATION**

The act of inhabiting, dwelling in or residing in.

**MOTOR VEHICLE**

A self-propelled medium of transportation whose design and use is land-based and which is used for the towing or transport of people, property, materials or animals and includes, but is not limited to, automobiles, trucks, buses, road operable RV's, race cars, off-road vehicles, motorcycles, semi-trucks, motor scooters or mopeds, tractors, vans and other similar devices designed to be legally driven on public streets and highways.

**MOTOR VEHICLE, ABANDONED**

A motor vehicle which, through disuse and/or failure to be used, remains in one location for a period of 10 consecutive days or more, unless the property owner or occupant provides written proof of intent and ability to use the vehicle within six months, or a motor vehicle which has been reported as stolen to any Police Department.

**MOTOR VEHICLE, DISASSEMBLED**

Any motor vehicle which has parts, accessories or equipment removed or missing therefrom so that it cannot be operated safely or legally.

**MOTOR VEHICLE, INOPERABLE**

Any motor vehicle which is incapable of functioning.

**MOTOR VEHICLE, JUNK**

Any motor vehicle which is partially dismantled, wrecked or damaged in such a manner that it cannot be operated safely or legally upon any thoroughfare.

**MOTOR VEHICLE, PARTS**

Any part or parts of any motor vehicle or any accessories thereof which affects the safety or operation of such motor vehicle or safety of its occupants.

**MOTOR VEHICLE, UNLICENSED**

A motor vehicle which does not have affixed to it a current motor vehicle license registration plate or a motor vehicle in which the affixed motor vehicle license registration plate does not belong.

**RECREATIONAL VEHICLE OR RV**

Any vehicle used for recreational purposes upon or by which any person, animal or property is or may be transported or drawn upon a waterway, road, street, highway or other ground-like surface. This includes, but is not limited to, all terrain vehicles (ATV's), motor-homes, trailers, trailer coaches, fifth wheel trailers, collapsible camping trailers, utility trailers, boat trailers, canoes, boats, snowmobiles, pickup (slide in) campers, truck caps, mini motor-homes, converted and chopped vans (created by altering or changing an existing auto van to make it into a recreational vehicle), private bus, converted bus and other such vehicles used for recreational purposes, but not specifically defined herein.

**REMOVAL**

The physical relocation of property to a proper location.

**ROAD OPERABLE RV**

Any RV that is self-propelled and licensable as a roadworthy vehicle, is currently licensed as such and is in an operable condition, including but not limited to motor vehicles which through some adaption have been converted to a road operable RV status.

**ROADWORTHY**

The ability to be operated safely and legally on roads, streets, highways or other public thoroughfares.

**SURFACE, PAVED**

Any all-weather hard and permanent surface having a good and sufficient subbase with a Portland cement concrete, plant mix bituminous concrete surface or macadam surface free of dust, loose stones, gravel or any surface that is graded, compacted and maintained so as to be dustfree and of a design to support the traffic.

**SURFACE, UNPAVED**

Grass and dirt surfaces are to be construed to be an unpaved surface.

**YARD, FRONT**

That portion of the yard located between the base setback line and the front plane of the building or buildings, including any offset in the structures, extended to each side lot line.

**YARD, REAR**

A yard extending along the full length of the rear lot line between the side lot lines. On a corner lot, the rear yard shall be that yard directly opposite the front yard.

**YARD, REQUIRED SIDE**

That portion of the side yard as designated by the side yard area requirements.

**YARD, SIDE**

A yard extending along a side lot line from the front yard to the rear yard.

## B. Junked vehicles.

(1) Prohibited. No person or other entity who owns or controls any premises shall allow themselves or any lessee, tenant or occupant to have disassembled, inoperable, unlicensed, junked or abandoned motor vehicles or parts thereof to be stored or allowed to remain in the open upon any public or private property within the City for a period in excess of 10 days, unless it is in connection with an automotive sales or repair business enterprise located in a properly zoned area and with a zoning compliance permit pursuant to § 15-9.0102 of the Unified Development Ordinance. This shall not apply to vehicles or parts thereof stored in an approved structure. The covering or tarping of a vehicle is not considered storage in an approved structure. [Amended 4-9-2003 by Ord. No. 2003-1747]

## (2) Removal.

(a) Upon notification to remove any disassembled, inoperable, unlicensed, junked, abandoned or wrecked motor vehicles or parts of the same, either from the property or to a proper storage facility, the person or other entity in charge of or in control of the property shall not cause removal of the same vehicle to any other private property upon which such storage is not in compliance with this Code.

(b) Whenever the Code Enforcement Officer, Building Inspector or Assistant Building Inspector shall find any disassembled, inoperable, unlicensed, junked or abandoned motor vehicles or parts of the same have been removed contrary to Subsection **B(2)(a)**, he or she shall order those vehicles or parts of the same to be removed within 10 days of notice.

## (3) Vehicle removal firm responsibility.

(a) All vehicles or vehicle parts removed shall be removed to a storage facility of the removal firm's choosing. The duration of the storage will be for a minimum of 10 days, at the end of which the removal firm may dispose of such vehicles or vehicle parts in any manner it deems desirable, unless previously claimed by the owner.

(b) The removal firm or the operator of the junk or salvage yard to which the vehicles or vehicle parts are removed may charge a fee for the handling and storage of vehicles or vehicle parts that have been removed at the request of the City.

(c) The City shall be held harmless and the vehicle removal firm shall assume full responsibility for all vehicles removed under the terms of this section.

(4) Salvage yards or junkyards exempted. The provisions of Subsections **B(1)** and **(2)** shall not apply to auto salvage yards or junkyards licensed by the City to carry on such business operations.

C. Junk or discarded property. No person or other entity shall store or allow to be stored open to the elements and not in an approved structure on any lot, except in Industrial Districts where specifically approved, any junk or discarded property, including but not limited to refrigerators and other appliances; toilets, sinks and other plumbing fixtures; furnaces; machinery or machinery parts; wood; construction materials; amusement park devices; barrels; old iron; chain; brass; copper; tin; lead; other base metals; paper clippings; rags; rubber; glass, bottles or similar items; and any other debris, equipment or implement.

## D. Firewood.

(1) No person or other entity shall store firewood on a parcel of land between the lot line adjoining a public right-of-way and the nearest facade of the principal structure, except that a person may temporarily, not to exceed 14 days, store firewood in the area between the public right-of-way and the nearest facade of the principal structure.

[Amended 12-21-2021 by Ord. No. 2021-2489]

- (2) No person or other entity shall store, to be used as firewood, for more than 30 days, waste construction lumber, pallets, tree cuttings or tree parts, unless such have been cut up or split to usable size and stacked in a neat and orderly manner.

E. Removal of debris.

- (1) No person or other entity shall dispose of rocks, downed trees, stumps, brush, waste building materials or other debris from land development or improvement, building construction, street grading or other activity, except at a licensed landfill site.
- (2) No landowner shall allow an accumulation of rocks, trees, stumps, brush, waste building material or other debris from land development or improvement, building construction, street grading or other activities upon the surface of the land for a period of more than 30 days.
- (3) All landfill operations or other activities of the land that would interfere with mowing shall be leveled off to permit the mowing between May 15 and November 1 of each year. This includes the removal of stones, bottles, wire and other debris that will interfere with the mowing operation.

F. Motor vehicle parking.

- (1) No motor vehicle may be parked upon premises zoned as or employed for residential use unless within a garage or upon a paved or unpaved driveway leading directly from the roadway to the garage or parking stall.
- (2) No parking will be allowed upon any unpaved surface.
- (3) No single-family residential dwelling shall have more than a single driveway ingress/egress point to the public street. The City Council may approve additional ingress/egress points.

G. Storage and parking of RV's and RV parts/equipment. No RV may be stored or parked on premises zoned as or employed for residential use, except as set forth in this subsection.

- (1) Ownership. The RV shall be owned by the property owner or occupant, provided that he or she is a resident of the premises.
- (2) Size limits. No RV or road operable RV which exceeds any one of the following shall be any place on any lot zoned for, used as or employed for residential use: 30 feet in length, eight feet wide and 13 feet six inches in height.
- (3) Yard parking setbacks. No RV may be parked in the side yard abutting a public street without a temporary parking permit, unless the RV is screened by a six-foot-high solid fence or natural screening. Said fence shall comply with all fence regulations. For purposes of this section, natural screening shall mean year-round dense plantings, at least six feet tall at time of planting, and screens at least 50% of the view of the RV, at time of planting, when viewed from the perpendicular on the adjoining street. All RV's in excess of 10,000 pounds' gross weight, unless loading or unloading [see Subsection **G(4)**], are prohibited from parking in the front yard area. Road operable RV's shall be parked either within an enclosed attached garage or detached accessory structure or on a paved or unpaved driveway surface with the side or rear yards, with setbacks conforming with Zoning Ordinance regulations.

[Amended 12-15-1998 by Ord. No. 98-1526]

- (4) Loading and unloading parking. RV's may be parked in the front yard drive area for the sole purpose of loading and unloading for a duration not to exceed two twenty-four-hour nonconsecutive days in any seven-

day period without a temporary parking permit.

- (5) Temporary permit parking. RV's, regardless of size, may be parked in the front yard or the side yard abutting a public street only upon issuance of a temporary permit. Temporary permits may be issued by the Code Enforcement Officer, Building Inspector or Assistant Building Inspector upon application and receipt of a five-dollar permit fee for a period not to exceed two weeks. This permitted time shall not exceed two calendar weeks in any consecutive thirty-day period. <sup>[1]</sup>

[1] *Editor's Note: Original Section 11.07(7)(f), which immediately followed this subsection, was repealed by Ord. No. 94-1297.*

- (6) Parking of disrepaired RV's. Disrepaired RV's shall not be allowed to be stored in the open on any property, but may be stored in an approved structure on the property. The accumulation of RV related parts, debris or related paraphernalia will not be allowed, unless those parts, debris or paraphernalia are stored in an approved structure.
- (7) Maintenance of RV parking area. The ground area under and immediately surrounding RV's or RV equipment shall be maintained free of weeds, noxious weeds, debris, junk or overgrowth. The weeds, noxious weeds or overgrowth shall comply with § 178-3F of this chapter.
- (8) Habitation. No RV shall be used for human or animal habitation, excepting mobile home parks or parks for campers.
- (9) Utilities connection prohibitions. RV's shall have fixed connections to electricity, water, gas or sanitary sewer facilities, excepting when loading or unloading.
- (10) Variance allowance. In those cases where parking is a hardship, as regards space constraints relative to overall size of the RV that are noted, the Code Enforcement Officer, Building Inspector or Assistant Building Inspector, after reviewing the hardship, will be empowered to make an allowance of no more than 10% of the total length of the RV in question.

#### H. Enforcement.

- (1) Whenever the Code Enforcement Officer, Building Inspector or Assistant Building Inspector shall be advised of or observe any violation of this section, the Code Enforcement Officer, Building Inspector or Assistant Building Inspector shall give notice of the violation to the property owner. If the violation is not corrected, the Code Enforcement Officer, Building Inspector or Assistant Building Inspector may correct or have the violation corrected, and the charges, if any, for such correction shall be entered as a special charge on the tax roll for the property owner.
- (2) In addition, any Enforcement Officer may issue citations for violations of this section pursuant to Chapter 1, General Provisions, § 1-19, or cause abatement procedures or compliance procedures to commence.
- (3) Notwithstanding all other provisions, the City may seek injunctive relief by an action in circuit court.

## § 178-8. Abatement of public nuisances.

- A. Enforcement. The Chief of Police, Chief of the Fire Department, Building Inspector and Health Officer shall enforce those provisions of this chapter that come within the jurisdiction of their offices and make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and satisfied himself or herself that a nuisance does in fact exist.

- B. Summary abatement. If the inspecting officer shall determine that a public nuisance exists within the City and that there is great and immediate danger to the public health, safety, peace, morals or decency, he or she may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- C. Abatement after notice. If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he or she shall serve notice on the person causing or maintaining the nuisance to remove the same within 10 days. If such nuisance is not removed within such 10 days, the proper officer shall cause the nuisances to be removed as provided in Subsection **B** or issue citation(s) subjecting the person(s) to § **1-19**, Penalty provisions, of this Code.  
[Amended 8-17-2010 by Ord. No. 2010-2017]
- D. Other methods not excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the state.
- E. Court order. Except when necessary under Subsection **B**, no officer hereunder shall use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property if such premises are occupied, and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.



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Office of Administration

**TO: Public Welfare Committee**  
**FROM: Justin Schoenemann, Assistant City Administrator**  
**DATE: December 8, 2022**  
**SUBJECT: Community Survey Planning and Background Information**

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### **Background**

The City of Mequon has a long-held tradition of gauging community opinion by conducting surveys in which residents can voluntarily participate. Within the last two decades, perhaps longer than that, the City has conducted community-wide surveys every five to seven years. The 1999 and the 2005 surveys were done in connection with a community visioning process. A third community survey focusing on economic development was started in 2012 and completed in 2013. The most recent survey focusing on land use, development, quality of life, and satisfaction with City services was started in 2018 and completed in 2019.

The City has contracted with the Strategic Research Institute (SRI) of St. Norbert College for assistance with completing the survey in 2019. The SRI worked in partnership with Neighborhood Analytic, a small company comprised of researchers. The cost of SRI's services was approximately \$40,000.00. The City also expended funds on signs, ads, mailers, and similar items to publicize the survey. Further information, including results of the 2019 survey, is available on the City's website via the below link.

Link: [www.ci.mequon.wi.us/community/page/community-survey](http://www.ci.mequon.wi.us/community/page/community-survey)

### **Analysis**

A community-wide survey would need to be completed between 2024 through 2027 if the Public Welfare Committee wishes to conduct another survey along the same historical interval. The initial steps of that process could entail selecting the survey's subject matter areas of focus, which could include items from the recently adopted Strategic Plan, and what format the next survey should be comprised. If there is an interest in conducting a survey in 2024, then working through the initial steps in the third or fourth quarter of 2023 could help achieve that goal.

### **Fiscal Impact**

The City would need to dedicate funds to support a community survey. While no funds are earmarked for a survey in 2023, the budgeting process for 2024 could be an opportune time to dedicate funds to conduct a survey if there is interest in completing one that year.

### **Recommendation**

Staff is ready to gather the Committee's thoughts and slot the community-wide survey into the Committee's work calendar if there is such interest.



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Office of Administration

**TO: Public Welfare Committee**  
**FROM: Justin Schoenemann, Assistant City Administrator**  
**DATE: October 3, 2022**  
**SUBJECT: Work Calendar**

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### **Meeting Topics**

#### **November**

- Nuisance Ordinance (Continued)
- Survey Plan Requirement Ordinance

#### **December**

- Nuisance Ordinance (Continued)
- Electronic Meetings ordinance (Continued)

#### **January**

- Nuisance Ordinance (Continued)
- No Mow May

### **Future Agenda Topics**

- Architectural Board Review (Continued)
- Chapter II, Article IV Review (Continued)
- Adopt-A-Median Program
- Community Outreach Initiatives
- Logo Redesign/Branding
- Home Irrigation Systems (Fall 22)
- Composting Plan (2023)

### **2022 Completed Items**

- Survey Plan Requirement Ordinance
- Resident Swimming Pool Safety Covers (Continued)
- Aldermanic Special Election Ordinance
- Aldermanic Wards Modifications
- Bee City Designation
- Architectural Board Membership
- Electronic Meetings Ordinance
- Polling Sites
- Burn Ordinance